

**REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 10 and 11 are currently being prosecuted. The Examiner is respectfully requested to reconsider her rejections in view of the remarks set forth below.

***Rejection Under 35 U.S.C. § 103***

Claim 10 stands rejected under 35 U.S.C. § 103 as being obvious over Tao et al. (WO 99/60973) in view of Morman et al. (U.S. Patent 5,883,028), and further in view of Jordan et al., (U.S. Published Application 2001/0031954). This rejection is respectfully traversed.

Applicants submit that claim 10 would not be obvious over this three-way combination of references. Applicants furthermore submit that it would not be obvious to one of ordinary skill in the art to combine the references together.

The Examiner relies on Tao et al. to show the basic invention but admits that the reference does not disclose the values of  $L^*$  and  $C^*$ , the light transmittance of the nonwoven material, and the basis weight of the nonwoven material. The Examiner relies on Jordan to show a backsheet of the nonwoven material having a light transmittance of 80%. The Examiner also relies on the Morman et al. reference to show a basis weight of a nonwoven material between 30 and 45g/m<sup>2</sup>.

Applicants submit that even if these references are combined, they still do not teach all the features of the present claimed invention. The Examiner admits

that Tao is silent as to the  $L^*$  and  $C^*$  values of the printed area. The Examiner has made arguments concerning the presence of various colors disclosed in Tao et al. However, the reference never discusses the values of  $L^*$  and  $C^*$  in any fashion. The Examiner only argues that the color royal blue must be near the center of the range although she provides no further information as to why this occurs.

In regard to the chroma value, the Examiner argues that having a value in the given range would be necessary to make a clear and visible graphic, while giving no evidence of this. Since the Examiner admits that the references do not show these two features, and since she has not made a compelling argument as to why the reference would inherently show these values, applicants submit that the combination of the three references do not render claim 10 obvious.

In regard to the value of  $b^*$ , the present invention produces a value which is aimed to prevent any reduction in the clearness of the multicolor pattern, as described on page 6 of the specification. This differs from the references which do not take the clearness of the printed pattern into consideration to determine this  $b^*$  value.

Furthermore, Applicants admit that it would not be obvious to one of ordinary skill in the art to combine the teachings of the three references. In regard to the newly cited Jordan reference, the Examiner points to a teaching that the layer has a light transmittance value of 80%. The reference states in paragraph 0074 that the value is about 80% or higher, such as 80-95%. More particularly, the value is 84-88%. The claimed range for this parameter in the

present application is 40-83%. The broadest range of the reference only barely includes the claimed range. The preferred values are outside the range of the claims. Similarly, with regard to the  $b^*$ , Tao et al. only shows the value of 0 within the claimed range. Thus, for at least two of these parameters, the references only barely make it into the claimed range and for the  $L^*$  and  $C^*$  value, there is no clear disclosure of the values. While a reference which shows only a single point from a claimed range makes a viable rejection, nevertheless, when two or more parameters only barely make it into the claimed range, questions must be asked about the obviousness of making a three-way combination. Especially in a situation such as in the present claims, where several commercial features are being maximized, such as clarity of the printed figures and feel of the diaper, it is difficult to say that one skilled in the art would make such a combination. Especially as in the present case, where the Jordan et al. reference falls outside the range for its preferred embodiment, and Tao et al. shows a single point, and where the material used impacts other commercial features such as the softness of the material, Applicants submit that it would not be obvious to combine the teachings of these three different references.

Claim 11 stands rejected under 35 U.S.C. 103 as being obvious over Tao et al. in view of Morman and Jordan et al., and further in view of McCormack et al. (WO 00/389015). This rejection is respectfully traversed.

First, Applicants submit that claim 11 is allowable based on its dependency from allowable claim 10. Secondly, Applicants submit that it would be even less

obvious to one of ordinary skill in the art to add the teachings of the fourth reference. Furthermore, it is noted that McCormack et al. contradicts the Tao et al. reference in that Tao specifically has a  $b^*$  value of 0-5, while the Examiner relies on McCormack to show a  $b^*$  value of -0.2. Thus, the McCormack et al. value contradicts the teachings of Tao et al., and apparently, it would not be obvious to change this value.

Furthermore, in regard to the McCormack reference, it is pointed out that the international publication date is July 6, 2000, which is after the priority date of the present application of April 19, 2000. Accordingly, Applicants submit that the McCormack reference cannot be applied in an obviousness rejection. It is, however, noted that the international application claims priority to a U.S. application filed on December 21, 1999, which is based on a provisional application filed on December 30, 1998. However, the appropriate date for the international application is the publication date and accordingly, these priority dates cannot be relied upon.

### **Conclusion**

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner either alone or in combination. In view of this, reconsideration of the rejections and allowance of all the claims are respectfully requested.

In the event that there are any outstanding matters remaining in this application, the Examiner is invited to contact Robert F. Gnuse at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.


Respectfully submitted,

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